

REMARKS:

In the foregoing amendments, independent claim 5 was canceled and replaced with new independent claim 9. The dependency of dependent claims 7-9 was amended to depend directly or indirectly on new claim 9. Claims 6-9 are in the application for consideration by the examiner.

The Official action objected to the drawings as failing to comply with 37 C.F.R. § 1.84(p)(5) because they do not include reference Nos. 2, 6, and 8, which are discussed on page 8 of the specification. Together with this response, applicant is filing a Transmittal of Drawings including one sheet of replacement drawings encompassing Fig. 5. In the replacement sheet of drawings, the reference Nos. 2, 6, and 8, together with leader lines therefor, are included in Fig. 5, while reference No. 18b was removed. Applicant respectfully requests that the examiner approve and accept the changes to the drawings included in the replacement sheet of drawings attached to the Transmittal of Drawings. For these reasons, applicant respectfully requests that the examiner reconsider and withdraw the objection to the drawings as set forth in the outstanding Office action.

The Official action objected to claim 5. Since claim 5 was canceled in the foregoing amendments, this rejection is now moot. Claims 7 and 8 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. In the foregoing amendments to claims 7 and 8, claim 7 was

amended to depend from claim 6, and claim 8 was amended to depend from claim 7. Accordingly, applicant respectfully submits that proper antecedent basis is set forth for all the elements set forth in these claims. Applicant respectfully submits that claims 7 and 8 particularly point out and distinctly claim the subject matter regarded as the invention within the meaning 35 U.S.C. § 112, second paragraph. Therefore, applicant respectfully requests that the examiner reconsider and withdraw this rejection.

Claims 5-8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent No. 4,641,545 of Rabe in view of U.S. patent No. 4,119,186 of Choudhurry *et al.* (Choudhurry), both newly cited. This rejection is set forth on pages 3 and 4 thru the top of page 5 of the Official action. In the beginning portions of the rejection, the Official action repeated the claimed language in association with structure proposed by the teachings of Rabe. Towards the bottom of page 4, the Official action stated that Rabe does not disclose a control selector lever for switching the working implement drive control system between controllable and uncontrollable states by operating the locking lever, or the idle motion stroke occurs at a midway point of the rocking stroke, as set forth in applicant's claims. The teachings of Choudhurry were cited for correcting these deficiencies in the teachings of Rabe.

Applicant respectfully submits that the teachings of Rabe and Choudhurry do not disclose or suggest the invention as set forth in present claims 6-9 within the meaning of 35 U.S.C. § 103(a).

Applicant desires to express thanks to examiners David Bucci and Brad Van Pelt for the courtesies extended the undersigned in a personal interview on October 2, 2003. During this personal interview, the claims of record and proposed claims were discussed in connection with the teachings of Rabe and Choudhurry. No agreement was reached with respect to allowable subject matter.

In the foregoing amendments to the claims, claim 9 was added to the application. This claim defines that the lock lever device is located adjacent the passageway to the driver's seat, and the locking lever of the lock lever device blocks passage to the passageway to the driver's seat when it is switched to the controllable state, and permits passage through the passageway to the driver's seat when it is switched to the uncontrollable state. These additional limitations, which were not discussed in the personal interview with the examiners, distinguish the presently claimed invention from the teachings of Rabe and Choudhurry.

The teachings of Rabe and Choudhurry never discuss the location of the levers discussed therein within the vehicle. More importantly, these teachings do not contemplate or suggest an arrangement where a lock lever device is arranged adjacent the passageway to the driver's seat in a construction machine vehicle, where the lock lever device includes a locking lever that is arranged to block passage to the driver's seat when the lock lever is switched to the controllable state, and to permit passage through the passageway to the

driver's seat when the lock lever is switched to the uncontrollable state, as required in the present claims. In the arrangement of applicant's claims, when the driver gets off the driver's seat of the construction machine vehicle and exits the machine (or when the driver enters the vehicle), the locking lever must be returned from the passage obstructing position to a retracted position, whereby the switch of the control selector lever is switched to an uncontrollable position through the mechanical linkage. This provides an enhanced safety factor to the construction machine vehicle, because the machine cannot be entered or exited while it is in an operating mode. This arrangement of applicant's claims also eliminates various linkage mechanisms that are necessary in the prior art devices for ensuring the safety and proper operation of the construction machine vehicle.

Furthermore, in the presently claimed invention, the first end point of the rocking stroke of the locking lever idles the control selector lever. This arrangement is opposite to the structure proposed in Rabe, where either end point of the alleged rocking structure, such as shown in Figs. 2 and 3 of Rabe, provide forward or reversed motion. Present claim 6 defines that between the midpoint of the rocking stroke and the second end point of the rocking stroke of the locking lever, an output lever of the locking lever pulls or pushes the intermediate locking lever link, which structure is opposite to that proposed by Rabe. Applicant respectfully submits that the teachings of Rabe can properly be modified to change the end point of the rocking motion therein to an idle

state; since this would destroy the teachings of Rabe, because either the forward or reversed motion would not be engaged. Therefore, the alleged combination of Rabe with the teachings of Choudhurry does not appear feasible.

For the foregoing reasons, applicant respectfully submits that the invention is set forth in present claims 6-9 is distinguishable from the teachings of Rabe and Choudhurry. Therefore, applicant respectfully requests that examiner reconsider and withdraw this rejection.

The foregoing is believed to be a complete and proper response to the Official action mailed June 10, 2003. While it is believed that all the claims in this application are in condition for allowance, should the examiner have any comments or questions, it is respectfully requested that the undersigned be telephoned at the below listed number to resolve any outstanding issues.

In the event this paper is not timely filed, applicant hereby petitions for an appropriate extension of time. The fee therefor, as well as any other fees which become due, may be charged to our deposit account No. 22-0256.

Respectfully submitted,
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